

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5634 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD TUBE WELL ELECTRIC & MECHANIC WORKERS UNION

Versus

AHMEDABAD MUNI.CORPN

Appearance:

MR GIRISH PATEL for Petitioner

MR DV MEHTA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, Ahmedabad Tube Well Electric and Mechanic Workers Union, filed this writ petition before this Court against the Ahmedabad Municipal Corporation, in which manifold grievances have been made, but during the course of arguments, the learned counsel for the petitioner Shri Girish Patel has confined the matter to only one grievance, i.e. to give the Pump Majoor the selection

scale as per I.G. Thakore Award, i.e. to extend benefit of selection grade to this class of persons and further praying that as this class of persons have been stagnated as no channel of promotion has been provided from these posts, the Corporation may provide channel of promotion in addition to selection scale.

2. Shri Girish Patel, learned counsel for the petitioner submitted that Shri I.G. Thakore Award makes a provision for giving of selection grade to the Pump Majoor, but for the reasons best known to the respondents, those benefits have not been extended to this class of persons. So far as this grievance is concerned, the respondents have not filed any reply to the petition, and as such, the averments therein stand uncontroverted. The learned counsel for the Corporation Shri D.V. Mehta very fairly submitted that if the petitioner considers that the aforesaid entitlement has not been given to the category of Pump Majoor, then appropriate course for them is to make a representation to the Corporation and the same shall be considered and in case that class of persons are found entitled for the same, benefits shall be given from retrospective effect with all consequential benefits. The learned counsel for the petitioner has no objection to take recourse to this remedy as suggested by the learned counsel for the respondents, but he seeks indulgence of this court to the extent that direction may be given by this Court to dispose of that representation within a time bound programme.

3. Taking into consideration these facts and the agreement of the parties, I consider it to be in the interest of justice to order that the petitioner shall make a representation in connection with the aforesaid grievance within a period of two months from today and the respondent No.2 shall decide the same after giving an opportunity of hearing to the petitioner within a period of four months from the date of receipt of the same. In case the grievance of the petitioner is not acceptable, then it is expected of the respondent No.2 to make a reasoned order and a copy of the same may be given to the petitioner by registered post.

4. So far as the second grievance of the petitioner is concerned, it is suffice to say that this Court sitting under Article 226 of the Constitution of India cannot issue a writ of Mandamus to the respondent to frame Rules for giving promotion to the category of Pump Majoor. It is exclusively in the domain of respondent to frame rules and regulations to provide promotions to

its employees. But in case the category of Pump Majors are facing stagnation and there is no avenue of promotion in this category, it is always advisable for the Corporation, for its own benefits as well as for the benefit of employees, that such demand of the petitioner should be considered objectively after giving an opportunity of hearing to the petitioner. The learned counsel for the petitioner, Shri D.V. Mehta, very fairly conceded that the Corporation has no objection to consider this demand of the petitioner objectively after hearing it, in case appropriate representation is made in this respect to the concerned authority. The learned counsel for the petitioner has also no objection to follow the course as suggested by the learned counsel for the respondent. However, the only apprehension has been shown by the counsel for the petitioner is that in case time bound programme is not fixed for decision of such representation, the respondent may sit over the issue for years. The learned counsel for the respondent has no objection in case time limit is fixed by this Court for decision on the representation made by the petitioner.

5. In the circumstances, interest of justice will be met in case this writ petition is disposed of, in respect of second relief also with the directions that the petitioner may, if so desire, make a representation to the respondent No.2 within a period of two months from today and the respondent No.2 shall decide the same objectively after hearing the petitioner within a period of four months on receipt thereof. In case the grievance of the petitioner is not accepted, it is expected of respondent No.2 to pass a reasoned order and send a copy of the same to the petitioner by registered post. This writ petition stands disposed of with aforesaid directions. Rule stands disposed of accordingly with no order as to costs.

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(sunil)